

Message

From: Pierard, Kevin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=CBB681854E41C99B312C5516884D5F-KPIERARD]
Sent: 2/19/2019 7:01:42 PM
To: Melgin, Wendy [melgin.wendy@epa.gov]
Subject: FW: ACTION: Press inquiry regarding lawsuit over proposed Minnesota mine

fyi

From: Wester, Barbara
Sent: Tuesday, February 19, 2019 10:33 AM
To: Pierard, Kevin <pierard.kevin@epa.gov>; Ackerman, Mark <ackerman.mark@epa.gov>; Pfeifer, David <pfeifer.david@epa.gov>; Marko, Katharine <Marko.Katharine@epa.gov>; McKim, Krista <mckim.krista@epa.gov>
Subject: FW: ACTION: Press inquiry regarding lawsuit over proposed Minnesota mine

FYI ONLY – OPA is responding.

From: Jones, Enesta
Sent: Tuesday, February 19, 2019 10:06 AM
To: Stachowiak, Robert <Stachowiak.Robert@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>; Drinkard, Andrea <Drinkard.Andrea@epa.gov>; Fuld, John <Fuld.John@epa.gov>; Kelley, Jeff <kelley.jeff@epa.gov>; Rowan, Anne <rowan.anne@epa.gov>; Bassler, Rachel <Bassler.Rachel@epa.gov>
Subject: ACTION: Press inquiry regarding lawsuit over proposed Minnesota mine

Hi all,
 No comment on pending?

From: "Moreno, Ivan" <IMoreno@ap.org>
Date: February 19, 2019 at 11:02:06 AM EST
To: Press <Press@epa.gov>
Subject: Press inquiry regarding lawsuit over proposed Minnesota mine

Hi,

This is Ivan Moreno, I'm a reporter with The Associated Press. I'm writing a story today about this lawsuit that was filed against the EPA. I would like to get comment from the agency responding to the allegations to include in my story. Please let me know if this is possible.

Thanks,
 Ivan



ASSOCIATED PRESS

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From: PEER <info@peer.org>

Sent: Tuesday, February 19, 2019 7:58 AM

To: Karnowski, Steve <skarnowski@ap.org>

Subject: PRESS RELEASE: EPA Oversight of State Permits Evaporating



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For Immediate Release: Tuesday, February 19, 2019

Contact: Kyla Bennett (508) 230-9933; Kirsten Stade (240) 247-0296

EPA OVERSIGHT OF STATE PERMITS EVAPORATING

Staff Ordered Not to Transmit Comments Even on Controversial Projects

Washington, DC — The U.S. Environmental Protection Agency is preventing its own specialists from formally communicating concerns about state-issued pollution permits, according to a lawsuit filed today by Public Employees for Environmental Responsibility (PEER). As a result, EPA objections to state lapses in administering key environmental laws are being squelched.

The PEER suit focuses on PolyMet Mining's planned \$1 billion NorthMet mine copper-nickel mine in northern Minnesota. The mine and processing plant would occupy 19,000 acres in the St. Louis River basin, creating a permanent pollution source in the river flowing into Lake Superior. The project would also destroy more than 900 acres of wetlands.

Until Trump's election, the EPA Great Lakes Regional Office had submitted detailed comments to the two state permitting agencies, the Minnesota Department of Natural Resources and the Minnesota Pollution Control Agency (MPCA) expressing concerns about potential violations of the Clean Water Act.

During the past two years, however, EPA staff have been disallowed from providing comments in writing to their state counterparts. Instead, EPA staff were reduced to reading comments over the phone, according to call notes taken by MPCA staff. Nor would EPA release the finalized but still unsubmitted comments in response to a longstanding Freedom of Information Act (FOIA) request.

"It is ridiculous that EPA can only conduct kabuki oversight since staff may only read but not register serious objections about potential pollution violations," stated PEER staff Counsel Kevin Bell, who filed the FOIA lawsuit seeking release of the undelivered EPA NorthMet mine comments. "EPA apparently wants to ensure there is no paper trail evidencing the very real concerns of career professional staff."

PEER filed the lawsuit on behalf of WaterLegacy which seeks to inject EPA's stifled objections into its litigation challenging the state permits for the NorthMet mine. According to the MPCA notes, EPA remains concerned about excess mercury discharge, inadequate monitoring, and lack of numeric limits on mercury and other toxic chemicals in the discharge permits, among other problems.

EPA's withdrawal from regulatory oversight is not limited to this Polymet mine in Minnesota. EPA employees from other regions report similar constraints to PEER. Many cite an October 30, 2018 memo issued by Acting Administrator Andrew Wheeler directing EPA regional offices to exhibit "general deference to the states."

"The purpose of federal environmental laws is to guarantee a uniform safety net for clean water, air, and soil throughout the nation," explained PEER Science Policy Director Kyla Bennett, a scientist and attorney formerly with EPA, noting that the Wheeler memo on deference to states stems from former Administrator Scott Pruitt's "Cooperative Federalism" doctrine. "At EPA, oversight now means to overlook since political consensus is prized over EPA's commitment to public health and the environment."

PEER has previously pursued litigation faulting EPA for routinely preventing creation of records documenting the basis for its actions under Pruitt. Wheeler won dismissal of the suit by promising reforms, but the Polymet case and other instances raise new questions as to the efficacy of these "reforms." Meanwhile, a retired EPA lawyer has asked the agency's Office of Inspector General to thoroughly investigate the PolyMet permit.

###

[See the PEER lawsuit](#)

[Look at the state staff notes on EPA calls](#)

[Read the Wheeler memo](#)

[Revisit earlier PEER suit on EPA recordkeeping](#)

[View the IG complaint](#)

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